

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN DOE AND JANE DOE, on behalf of)
themselves and as Guardians ad Litem for their)
minor child, PRESCHOOLER,)

02:03-CV-01500-LRH-RJJ

Plaintiffs,)

ORDER

v.)

THE STATE OF NEVADA; et al.,)

Defendants.)
_____)

Presently before the court is Plaintiffs' Motion for Reasonable Attorney Fees and Costs (# 219¹). Defendants have filed an opposition and countermotion for fees and costs (## 222, 224). Plaintiffs have opposed (# 236) the countermotion and replied (# 232) to their original motion. Defendants have also filed a reply (# 238) in support of the countermotion.

This action was brought by Plaintiffs on behalf of themselves and their minor child, Preschooler, as a result of alleged improper treatment of Preschooler. Plaintiffs filed the present motion seeking attorney's fees for the underlying administrative hearing. Plaintiffs argue they are entitled to such fees and costs in the amount of \$84,797.51 as the prevailing party. Defendants argue that Plaintiffs should not be awarded any fees and costs for the minimal level of success

¹Refers to the court's docket number.

1 obtained. Alternatively, Defendants argue any entitlement Plaintiff has to fees should be offset
2 against an award of fees and costs incurred by Defendants in defending the federal action.
3 Specifically, Defendants seek an award of fees and costs in the amount of \$244,477.88² for
4 prevailing on Plaintiffs' causes of action brought pursuant to § 1983, the Rehabilitation Act, the
5 Americans with Disabilities Act and IDEA.

6 At this time, a jury trial is currently scheduled for October 21, 2008, on Plaintiff's fifth
7 claim for relief. Because this action has yet to be resolved in its entirety, the court finds it is
8 premature to determine whether Defendants are entitled to fees and costs. Similarly, to the extent
9 Plaintiffs may be entitled to fees and costs, those fees and costs may be offset by any favorable
10 award to Defendants. Such issues should be decided upon the final resolution of the substantive
11 issues in this case.

12 IT IS THEREFORE ORDERED that Plaintiffs' Motion for Reasonable Attorney Fees and
13 Costs (# 219) is hereby DENIED without prejudice.

14 IT IS FURTHER ORDERED that Defendants' counter-motion for fees and costs (# 224) is
15 hereby DENIED without prejudice.

16 IT IS SO ORDERED.

17 DATED this 19th day of June, 2008.



20 LARRY R. HICKS
21 UNITED STATES DISTRICT JUDGE

25 ²Defendants seek \$200,678.50 in attorney's fees and \$43,799.38 in costs.